IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8018 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GSRTC - Petitioner(s)

Versus

RASHIDABEN RAHIMBHAI BILAKHIA - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 24/06/2005

ORAL JUDGMENT

1.0 The petitioner Corporation has challenged the order dated 31.01.2000 passed by the Industrial Tribunal,

Bhavnagar, in Reference (IT) No.113 of 1998, whereby the said Reference was allowed.

2.0 The husband of the respondent herein was working with the petitioner Corporation in the cadre of Conductor on daily wages. On 22.03.1995, the husband of the respondent expired, and therefore, the respondent made an application on 07.06.1995 to the petitioner Corporation for appointing her on compassionate ground. On 08.07.1996 the petitioner Corporation replied to the aforesaid application of the respondent and stated that as per the Rules and Regulations of the petitioner Corporation, the respondent was not entitled for appointment on compassionate ground.

2.1 Being dis-satisfied by the said order, the respondent approached the Industrial Tribunal, Bhavnagar by way of a reference being Reference (IT) No.113 of 1998. The Tribunal vide order dated 31.01.2000 allowed the said Reference and hence, this petition.

3.0 Mr. H S Munshaw learned advocate for the petitioner has contended that the Tribunal has committed a serious error in directing the petitioner Corporation to absorb the respondent in service. He has submitted that the Tribunal at the most could have directed the petitioner to consider the application of the respondent for appointment on compassionate ground as per the policy of the petitioner Corporation.

3.1 Mr. Munshaw has further contended that the deceased – workman was not an employee of the petitioner Corporation and that he was employed on daily wages only. He has further submitted that the deceased workman had not worked

for the last three months and had expired at his residence on 23.03.1995, and therefore, the legal heirs of the deceased workman were only entitled to make an application before the petitioner Corporation for appointment on compassionate ground, which was considered by the petitioner and replied by communication dated 08.07.1996.

3.2 Mr. Munshaw has further submitted that as per the policy of the petitioner, the legal heirs of a deceased workman working on daily wages are not entitled for compassionate appointment and that only the heirs of those employees who are working on permanent basis are entitled for compassionate appointment. He has, therefore, submitted that the Tribunal has committed grave error in directing the petitioner Corporation to absorb the respondent in service.

4.0 Though served none appears for the respondent. I have heard learned counsel for the petitioner and perused the documents placed on record. The contention raised by the learned counsel for the petitioner that the Tribunal could not have issued a direction to appoint the respondent on compassionate ground is required to be accepted since the deceased workman was working as a daily wager only. At the most, it could have directed the petitioner to consider the case of the respondent as per its policy and it ought not to have issued such a direction.

5.0 Moreover, since it is the policy of the petitioner Corporation that the heirs of those deceased persons who were permanent employees of the petitioner Corporation are entitled for compassionate appointment, the respondent cannot be said to be entitled for appointment on

compassionate ground since he was working on daily wages. In that view of the matter, I am of the opinion that the Tribunal has committed grave error in granting appointment to the respondent and hence, the impugned order is required to be quashed and set aside.

6.0 For the foregoing reasons, this petition is allowed. The impugned order dated 31.01.2000 passed by the Industrial Tribunal, Bhavnagar, in Reference (IT) No.113 of 1998 is ordered to be quashed and set aside. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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